

***Superseded 5/12/2015***

**76-3-201 Definitions -- Sentences or combination of sentences allowed -- Civil penalties.**

- (1) As used in this section:
- (a) "Conviction" includes a:
    - (i) judgment of guilt; and
    - (ii) plea of guilty.
  - (b) "Criminal activities" means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.
  - (c) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the money equivalent of property taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical expenses.
  - (d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, and payment for expenses to a governmental entity for extradition or transportation and as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.
  - (e)
    - (i) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.
    - (ii) "Victim" does not include any coparticipant in the defendant's criminal activities.
- (2) Within the limits prescribed by this chapter, a court may sentence a person convicted of an offense to any one of the following sentences or combination of them:
- (a) to pay a fine;
  - (b) to removal or disqualification from public or private office;
  - (c) to probation unless otherwise specifically provided by law;
  - (d) to imprisonment;
  - (e) on or after April 27, 1992, to life in prison without parole; or
  - (f) to death.
- (3)
- (a) This chapter does not deprive a court of authority conferred by law to:
    - (i) forfeit property;
    - (ii) dissolve a corporation;
    - (iii) suspend or cancel a license;
    - (iv) permit removal of a person from office;
    - (v) cite for contempt; or
    - (vi) impose any other civil penalty.
  - (b) A civil penalty may be included in a sentence.
- (4)
- (a) When a person is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victims, or for conduct for which the defendant has agreed to make restitution as part of a plea agreement.
  - (b) In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.
  - (c) In addition to any other sentence the court may impose, the court, pursuant to the provisions of Sections 63M-7-503 and 77-38a-401, shall enter:

- (i) a civil judgment for complete restitution for the full amount of expenses paid on behalf of the victim by the Utah Office for Victims of Crime; and
    - (ii) an order of restitution for restitution payable to the Utah Office for Victims of Crime in the same amount unless otherwise ordered by the court pursuant to Subsection (4)(d).
  - (d) In determining whether to order that the restitution required under Subsection (4)(c) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and provide findings of its decision on the record.
- (5)
- (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court, the defendant shall pay restitution of governmental transportation expenses if the defendant was:
    - (i) transported pursuant to court order from one county to another within the state at governmental expense to resolve pending criminal charges;
    - (ii) charged with a felony or a class A, B, or C misdemeanor; and
    - (iii) convicted of a crime.
  - (b) The court may not order the defendant to pay restitution of governmental transportation expenses if any of the following apply:
    - (i) the defendant is charged with an infraction or on a subsequent failure to appear a warrant is issued for an infraction; or
    - (ii) the defendant was not transported pursuant to a court order.
  - (c)
    - (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i) shall be calculated according to the following schedule:
      - (A) \$100 for up to 100 miles a defendant is transported;
      - (B) \$200 for 100 up to 200 miles a defendant is transported; and
      - (C) \$350 for 200 miles or more a defendant is transported.
    - (ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant transported regardless of the number of defendants actually transported in a single trip.
  - (d) If a defendant has been extradited to this state under Title 77, Chapter 30, Extradition, to resolve pending criminal charges and is convicted of criminal activity in the county to which he has been returned, the court may, in addition to any other sentence it may impose, order that the defendant make restitution for costs expended by any governmental entity for the extradition.
- (6)
- (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the county for the cost of incarceration and costs of medical care provided to the defendant while in the county correctional facility before and after sentencing if:
    - (i) the defendant is convicted of criminal activity that results in incarceration in the county correctional facility; and
    - (ii)
      - (A) the defendant is not a state prisoner housed in a county correctional facility through a contract with the Department of Corrections; or
      - (B) the reimbursement does not duplicate the reimbursement provided under Section 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or a state parole inmate, as defined in Section 64-13e-102.
  - (b)

- (i) The costs of incarceration under Subsection (6)(a) are the amount determined by the county correctional facility, but may not exceed the daily inmate incarceration costs and medical and transportation costs for the county correctional facility.
- (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.
- (c) In determining whether to order that the restitution required under this Subsection (6) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and shall enter the reason for its order on the record.
- (d) If on appeal the defendant is found not guilty of the criminal activity under Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall reimburse the defendant for restitution the defendant paid for costs of incarceration under Subsection (6)(a).